

ADMINISTRATIVE PANEL DECISION

Sanofi Pasteur Inc. v. Richard Eijpen
Case No. DNL2024-0037

1. The Parties

The Complainant is Sanofi Pasteur Inc., United States of America (“United States”), represented by Novagraaf Belgium NV/SA, Belgium.

The registrant of the disputed domain name is Richard Eijpen, Netherlands (Kingdom of the), (the “Respondent”).

2. The Domain Name and Registrar

The disputed domain name <beyfortus.nl> is registered with SIDN through Cronon GmbH.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 8, 2024. On August 8, 2024, the Center transmitted by email to SIDN a request for registrar verification in connection with the disputed domain name.

On August 9, 2024, SIDN transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 9, 2024, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on August 9, 2024.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 12, 2024. In accordance with the Regulations, article 7.1, the due date for Response was September 1, 2024. The Center did not receive any response. Accordingly, the Center notified the Respondent’s default on September 9, 2024.

The Center appointed Rogier de Vrey as the panelist in this matter on September 16, 2024. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The Complainant is part of the well-known Sanofi Group, a pharmaceutical and healthcare company with over 50 years of experience, operating in more than 90 countries and employing over 91,000 people. The Complainant serves as the Group's vaccines division.

The Complainant states that it owns more than one hundred registrations for the trademark BEYFORTUS, the most relevant to this decision being:

- the European Union trademark BEYFORTUS with registration number 018407487, registered on July 21, 2021, covering goods and services in class 5;
- French trademark BEYFORTUS with registration number 4679360, registered on Januari 15, 2021, covering goods and services in class 5;
- United Kingdom trademark BEYFORTUS with registration number UK00003601712, registered on July 2, 2021, covering goods and services in class 5; and
- the United States of America trademark BEYFORTUS with registration number 90557485, registered on May 28, 2024, covering goods and services in class 5.

Hereinafter, these trademarks will be collectively referred to as "Mark".

The Complainant also operates several domain names featuring the word "beyfortus", with the most relevant to this decision being:

- <beyfortus.com> registered on September 3, 2020;
- <beyfortus.fr> registered on September 15, 2022;
- <beyfortus.us> registered on March 15, 2023; and
- <beyfortus.be> registered on February 23, 2024;

The disputed domain name was registered by the Respondent on April 6, 2023. The disputed domain name does not lead to an active website but to a webpage displaying a message stating "this domain is now reserved. As of now, no content has been uploaded", indicating that the disputed domain name has remained with no substantive content since its registration.

5. Parties' Contentions

A. Complainant

The Complainant asserts that the disputed domain name is identical or confusingly similar to the Complainant's Mark – BEYFORTUS – as it includes the Complainant's well-known Mark in its entirety, followed only by the country code Top-Level Domain ".nl", which may be disregarded when carrying out the confusing similarity test.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant asserts that the Respondent:

- does not have any authorization by the Complainant to use and register its Mark, or to seek registration of any domain name incorporating said Mark;
- does not have any prior intellectual property rights or other rights corresponding to the disputed domain name;

- does not make any bona fide use of the disputed domain name in connection with an offering of goods or services nor any demonstrable preparations to so use the disputed domain name;
- is not commonly known by the disputed domain name; and
- is not making any legitimate, noncommercial or fair use of the disputed domain name.

In addition, the Complainant asserts that the disputed domain name was registered or is being used in bad faith. At the time of registration of the disputed domain name, the Respondent should have been aware of and have known of the Complainant's Mark and the fact that that the Respondent replied to the Complainant's cease and desist letter offering the disputed domain name for sale indicates that the registration was in bad faith. The non-use of the disputed domain name would also not prevent a finding of bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Pursuant to article 2.1 of the Regulations the Complainant must establish on the balance of probabilities that the disputed domain name is identical or confusingly similar to the Complainant's Mark; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the disputed domain name has been registered or is being used in bad faith.

Since the Respondent has not submitted a Response, the Panel will make its decision based solely on the Complaint. Pursuant to article 10.3 of the Regulations, the Complaint will be granted, unless the Panel considers it to be without basis in law or in fact.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established the requirement of article 2.1(a) of the Regulations.

The Complainant owns, among others, the European Union trademark for BEYFORTUS and therefore enjoys protection under both European and Dutch (Benelux) law.

Pursuant to article 2.1(a) of the Regulations and section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")¹ the country code Top-Level Domain ".nl" may be ignored when assessing the similarity between the disputed domain name on the one hand, and the asserted trademark on the other (see, *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#)).

According to section 1.7 of the [WIPO Overview 3.0](#), a domain name that incorporates the entirety of a trademark will normally be considered confusingly similar to that mark.

The Panel concludes that the disputed domain name is confusingly similar to the Complainant's Mark, as it includes the Complainant's Mark in its entirety, followed only by the country code Top-Level Domain ".nl", which may be disregarded when carrying out the confusing similarity test.

¹ In view of the fact that the Regulations are (to an extent) based on and substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP – and therefore the "[WIPO Overview 3.0](#)" – may be relevant to the determination of this proceeding (*Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

The Complainant has thus established the first element of article 2.1 of the Regulations.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established the requirement of article 2.1(b) of the Regulations.

To establish this second requirement, the Complainant must make a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. Since, generally speaking, proving that a respondent lacks rights or legitimate interests in a domain name may lead to the difficult if not impossible task of proving negative circumstances, it is sufficient for the Complainant to present prima facie evidence to shift the burden of production to the Respondent (see, section 2.1.1 of the [WIPO Overview 3.0](#)).

The Respondent has not formally replied to the Complainant's contentions and thus has not rebutted the Complainant's contentions.

The evidence submitted by the Complainant shows that the Respondent is not making any bona fide use of the disputed domain name in connection with an offering of goods or services nor is the Respondent making legitimate, noncommercial or fair use of the disputed domain name. The disputed domain name does not resolve to an active website but instead leads to a webpage displaying a message stating "this domain is now reserved. As of now, no content has been uploaded", indicating that the disputed domain name has remained with no substantive content since its registration. Thus, the Panel finds that the Complainant has established a prima facie case that the Respondent does not have any rights to or legitimate interests in the disputed domain name, while the Respondent has failed to come forward with any evidence to the contrary.

The Panel further notes that the disputed domain name is identical to the Complainant's Mark, differing only by the addition of the country code Top-Level Domain ".nl", leading the Panel to conclude that the disputed domain name carries a high risk of implied affiliation with the Complainant's Mark that prevents any rights or legitimate interest on behalf of the Respondent. ([WIPO Overview 3.0](#), section 2.5.1).

The Panel concludes that there is no evidence and there are no indications that the Respondent has rights to or legitimate interests in the disputed domain name and that the Complainant has thus established the second element of article 2.1 of the Regulations.

C. Registered or Used in Bad Faith

In light of the Complainant's contentions supported by the evidence submitted by the Complainant, the Panel finds that the Complainant has established the requirement of article 2.1(c) of the Regulations.

At the time of registration of the disputed domain name, the Complainant's Mark was already registered and well-known. Therefore, the Respondent must have been aware of the Mark at the time of registration. The apparent lack of any good faith attempts to ascertain whether the Respondent was registering and using a third-party trademark – such as by conducting online searches – supports a finding of bad faith. Moreover, the Complainant's Mark is inherently distinctive, as it consists of a non-dictionary term, making it unlikely that the Respondent's choice of this word as a domain name was a coincidence, particularly since, based on the case records, the Respondent holds no rights or business interests associated with this distinctive term.

In addition, the Panel finds that the Respondent's offers on July 24, 2024, and July 31, 2024, to transfer the disputed domain name to the Complainant in exchange for a monetary payment, coupled with the lack of any bona fide use of the disputed domain name or any explanation for the registration and use of such, suggests that the intent behind the registration of the disputed domain name was for selling, renting, or transferring it to the Complainant for a sum exceeding the direct costs associated with the disputed domain name (absent any evidence from the Respondent to the contrary). See, *Yves Saint Laurent Parfums v. Zhao Ke*, WIPO Case No. [DNL2022-0020](#). Moreover, the non-use of the disputed domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

The Panel concludes that the Complainant has provided sufficient evidence of bad faith registration and bad faith use by the Respondent, as set out in article 3.2(a) of the Regulations.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the disputed domain name <beyfortus.nl> be transferred to the Complainant.

/Rogier de Vrey/

Rogier de Vrey

Panelist

Date: September 30, 2024